



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

March 3, 2011

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Fahad Chaudhry**
Tax Registry No. 936335
Bronx Court Section
Disciplinary Case No. 84195/08

The above named member of the service appeared before Assistant Deputy Commissioner John Grappone on June 14, 2010 and was charged with the following:

DISCIPLINARY CASE NO. 84195/08

1. Said Police Officer Fahad Chaudhry, assigned to the 40th Precinct, on or about June 6, 2008, while off-duty, in Nassau County, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, in that said Police Officer did place or attempt to place another person in reasonable fear of physical injury, serious physical injury, and/or death by displaying a deadly weapon, to wit: said Police Officer did approach a person known to this Department with his firearm drawn, and did state to said person, in sum and substance, "I'm a cop, don't fuck with me, I'll kill you," causing said person to fear for his safety.

P.G. 203-10, Page 1, Paragraph 5

GENERAL REGULATIONS

In a Memorandum dated December 13, 2010, Assistant Deputy Commissioner Grappone found the Respondent Guilty of the sole Specification and recommended a penalty of summary dismissal from the Department. Having read the Memorandum and analyzed the facts and circumstances of this matter, I approve the finding, but disapprove the penalty.

I was not persuaded that the entirety of the Respondent's actions occurred in the manner alleged by the complainants and witnesses, especially since there were known issues of credibility and consistency amongst these individuals. As such, although I find that the Respondent did engage in wrongful and inappropriate misconduct, I do not agree that a case for summary dismissal from the Department has been convincingly established. Consequently, a penalty short of summary dismissal will be imposed.

Thus, Respondent Chaudhry is to be Suspended Without Pay for 30 days, be placed on a One-Year Dismissal Probation period, and is to forfeit all Suspension Without Pay days previously served and all time/benefits while on Suspended With Pay status.

A handwritten signature in black ink, appearing to read "Raymond W. Kelly".

Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

In the Matter of the Disciplinary Proceedings : X
- against - : FINAL
Police Officer Fahad Chaudhry : ORDER
Tax Registry No. 936335 : OF
Bronx Court Section : DISMISSAL

Police Officer Fahad Chaudhry, Tax Registry No. 936335, Shield No. 20298, Social Security No. ending in [REDACTED], having been served with written notice, has been tried on written Charges and Specifications numbered 84195/08 as set forth on P.D. 468-121, dated June 10, 2008, and after a review of the entire record, has been found Guilty as Charged.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Fahad Chaudhry from the Police Service of the City of New York.

RAYMOND W. KELLY
POLICE COMMISSIONER

EFFECTIVE:



POLICE DEPARTMENT

December 13, 2010

In the Matter of the Charges and Specifications : Case Nos. 84195/08

- against - :

Police Officer Fahad Chaudhry :

Tax Registry No. 936335 :

Bronx Court Section :

X

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable John Grappone
Assistant Deputy Commissioner - Trials

A P P E A R A N C E:

For the Department: Lisa McFadden, Esq.
Department Advocate's Office
One Police Plaza
New York, New York 10038

For the Respondent: John Tynan, Esq.
Worth, Longworth & London, LLP
111 John Street
New York, New York 10038

To:

HONORABLE RAYMOND W. KELLY
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

COURTESY • PROFESSIONALISM • RESPECT

The above-named member of the Department appeared before me on June 14, 2010 and July 30, 2010, charged with the following

1 Said Police Officer Fahad Chaudhry, assigned to the 40th Precinct, on or about June 6, 2008, while off-duty, in Nassau County, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, in that said Police Officer did place or attempt to place another person in reasonable fear of physical injury, serious physical injury, and/or death by displaying a deadly weapon, to wit said Police Officer did approach a person known to this Department with his firearm drawn, and did state to said person, in sum and substance, "I'm a cop, don't fuck with me, I'll kill you," causing said person to fear for his safety

PG 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

The Department was represented by Lisa McFadden, Esq., Department Advocate's Office, and the Respondent was represented by John Tynan, Esq.

The Respondent, through his counsel, entered a plea of Not Guilty to the subject charge. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent is found Guilty as charged

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Todd Rockensies, Noaman Hassan, and Sajjad Ali as witnesses. The Department also offered for evidence the out-of-court recorded statements of Faiq Amin and Taimur Hussain, and the Supporting Depositions of Faiq Amin, Taimur Hussain, Zara Rafiq, Michael Woythaler, and Mishaal Salman.

Todd Rockensies

Rockensies is a carpenter at Hofstra University. He was working on the Hofstra campus during the early morning of June 6, 2008. On that morning he was walking out to his truck when he noticed two cars pull up and "a bunch of kids jumped out." He was approximately 75 yards away and walked up closer to within 50 yards. The parking lot was well lit and the early morning sun was starting to come out. He was able to see the two cars clearly from where he was standing. Rockensies stated there was arguing or loud talking and then 'before I knew it one guy pulled out a gun' then the guy who the gun was being pointed at was cursing "you pulling an F'ing gun on me I will get my F'ing gun."

Upon being asked which car pulled up first, Rockensies stated it was the farther car with more people in it. He believed there were two men and two women in that car. Alongside it, the other car pulled up a few seconds later, as if it was following the first car. There were two people in the second car. All of the people exited the vehicles--approximately four individuals in one car, two males and two females, and two males in the other car.

Rockensies at first thought they were friends, so he didn't pay too much attention to them. The group, however, started getting louder, and Rockensies "thought there was going to be a fight. They were just yelling at each other I think one of them said I can't believe you followed us from Brooklyn from the club."

Upon questioning by the Court, Rockensies testified it was a woman that said "you followed me all the way here from the club." Rockensies believed she said it to the man that later pulled out the gun. Prior to the gun being pulled out, Rockensies did not see any physical menacing, just arguing and loud talking.

Rockensies further testified that he did not see any of the other individuals with weapons in their hands, nor did he see anyone make a threatening move with a weapon. Prior to the man pulling the gun out, Rockensies did not see anyone reach toward the waistband of the man with the gun. The gun was out for a few minutes and the man holding it was approximately six feet away from the man he was pointing it towards.

Rockensies realized it was more serious than "just friends messing around." He proceeded to call Public Safety¹ from his walkie-talkie and told them there was a fight going on by the "Enterprise" building. He stated that approximately 45 seconds to a minute went by and Public Safety had not arrived, so Rockensies called again. He told them, "beware one of those guys has a gun" but by that time the individual had put it away. Public Safety arrived approximately 30 seconds later.

Rockensies further testified that Nassau County Police Department (NCPD) arrived a few minutes after Public Safety. There were eight cars and eight officers, one officer to a car. The entire incident, from when Rockensies saw the two cars pull up until the time NCPD arrived was 20 minutes. Rockensies did not hear the individual who pulled out the gun identify himself as a police officer, nor did he see him hold up a shield or any type of identification.

On cross-examination, Rockensies stated that he did not see the trunk of either car open. Upon being asked if he could tell the group's ethnicity, if they were Black, White or Spanish," Rockensies replied, "I noticed they were like brownish. I couldn't tell you if they were Spanish, Pakistani, they weren't like white or black, they were brownish."

Rockensies has seen drunken students on campus before. He agreed that Public Safety's job is to deal with drunken students and to police the whole campus. While

¹ Public Safety is the university's security

Rockensies saw these people arguing at five o'clock in the morning, he did not call Public Safety right away. He was waiting to see if a fight broke out. He wanted to make sure there was trouble because he thought they were friends. He thought they were friends because they pulled up together and were talking.

While Rockensies saw them pull into the parking lot together, he did not see them come through the security gate together. He did not see who arrived at the security gate first. They parked, jumped out and then two individuals were on a sidewalk. They were on the sidewalk, not in the parking lot. They pulled into the parking lot, but the curb to the sidewalk was right where they pulled in.

Rockensies stated that this parking lot is used for the dormitory buildings that surround it. By June 6, school was not in session, but there were still people staying in the dormitories because some people stay all summer. Rockensies kept walking towards the group and stopped 50 yards away to observe what was taking place. When he radioed for Public Safety he was still 50 yards away and did not get closer until they arrived. By the time Public Safety came, the gun had been placed back into the person's holster or waistband. He was not sure where he put it. There was no struggle.

Upon being asked if he could identify the individuals, Rockensies said, "Probably not." Rockensies acknowledged that he could not remember what the individuals looked liked because of a combination of time, this was two years ago and distance, he was 50 yards away. It was approximately 5 o'clock in the morning. The sunrise that day was 5:20 a.m. Rockensies agreed that it was still dawnish. He got to work at 4:00 a.m. when it was dark, but "getting lighter." Upon being asked about the weather that day – if it was rainy, misty or sunny, Rockensies stated that he believed it was clear, but he did not remember. He added that he did not wear glasses.

When Public Safety arrived, Rockensies finished walking down the ramp and one of the Public Safety officers met him by the back of his van, which was 30 or 40 yards away from the incident. Rockensies recalled, "When Public Safety pulled up, they put everybody against the car and started searching everybody." They did not ask him to identify the man with the gun.

Rockensies acknowledged he could not attribute anything that was said to any particular person. He may have heard someone yell "fuck you," but if someone talked in a lower voice he would not have heard them. Rockensies stated some of them were walking around, and at times, had their backs to him. They were also walking between the cars that were there.

Rockensies further explained that he was coming down the handicap ramp from a building called [REDACTED] and the group was at [REDACTED]. He was ten feet above them in height and did not yell to them at stop. Upon being asked if there are any security cameras mounted on the outside walls of either of the two buildings, Rockensies stated "at that time, probably not." Rockensies went on to say that "They have put a lot of cameras up since."

On redirect examination, Rockensies stated when he saw the gun being pulled by the individual, he recognized it as a gun. He was able to recognize it as a gun because of "TV shows, whatever, my father used to have guns."

He reiterated that when the police and Public Safety arrived, they did not ask him to identify anyone. By the time NCPD arrived, Public Safety had group in the back of their cars.

With regard to his initial observation of the group, Rockensies stated that he did not hear the individual who had the gun make a statement, but the man he pulled it on

was cursing. Then a woman said, 'There's a guy over there' Rockensies stated, 'I believe she saw me [then] they put it away like trying to calm down, diffuse the situation.' Rockensies again testified that at no time did he see anyone open the trunks, or anyone reach into the trunks of either of the two cars.

Noaman Hassan

On the evening of June 5, 2008, Hassan went to a club called S O B 's with his friends Mishaal Salman, Faiq Amin, Taimur Hussain, Sajjad Ali and Zara Rafiq. He stated that he was friends with Salman at the time. Hassan came into contact with the Respondent at the club when the Respondent came up behind him and poked him in the rib. Hassan did not know the Respondent personally at the time. It was his understanding that the Respondent was Salman's boyfriend or ex-boyfriend, but he did not know the personal details between them. Hassan did not see the Respondent as he approached and he was poked by the Respondent from the back. After this, Hassan "just looked at him and he looked at me and that was it." There were no words exchanged.

Hassan and his friends left the club at 3:30 a.m., on June 6, and proceeded to drive to Hofstra to drop off Salman at her dormitory. Hofstra was about a one hour from the club. They travelled in one vehicle, going east on the Northern State Parkway.

At one point, Hassan said the group encountered another vehicle on the parkway. Hassan saw that the Respondent was driving the other vehicle, and recognized him as the same individual that poked him. Upon being asked if he knew it was the Respondent based on the vehicle, Hassan stated that he knew it was the Respondent "when he hit my car but prior to that I never really seen him drive that vehicle."

Hassan stated that the Respondent's car came from behind. The car Hassan was in was in the left lane and the Respondent's came from behind in the right lane and tried to force them towards the divider that was on the Northern State Parkway. Hassan stated the Respondent then went in front of their car, hitting the brakes and not letting them pass. Because of this altercation, they took the first exit they came to, drove towards the Long Island Expressway (LIE) service road and stopped to get gas. The interaction between the two cars on the highway lasted two minutes, maybe less.

Hassan stated that Salman was talking on the phone but he did not know who she was talking to until the Respondent's car pulled up next to their car. When the Respondent's car pulled up next to theirs, Salman did not say anything at that time. Hassan, however, then "realized it myself the whole time she was telling him where we are, where the car is and what the car looked like."

After getting gas, Hassan said, they proceeded to Hofstra. At the entrance of Hofstra, Hassan saw the Respondent's car across from them and was surprised to see that the Respondent was there at the same time they got there. The Respondent pulled into the campus behind them. Hassan stated that they needed to go through the security and show a student ID to gain access to the school grounds. Hassan showed an ID. He stated that there was a gate that came down and it would not open until the security guard let you in or if you swiped an ID card. After they drove past the gate, they proceeded to the dormitory. They did not think the Respondent would be let through because he was not a student there and did not have an ID, but Hassan saw the light of the Respondent's car coming behind them.

Hassan testified that when they pulled in front of the building the Respondent's vehicle pulled in on the right side. Once there, the group got out of their car to "see off"

Mishaal " The Respondent got out of his car and looked like 'he was mad or something ' The person that was with him [later identified as his friend, Saqid Majid], was holding him back and trying to "calm everybody down " Hassan stated that the Respondent was drunk

Hassan further testified that the when the Respondent exited his vehicle, a couple of Hassan's friends were cursing and saying, 'Are you crazy, what are you doing, are you trying to kill us off the road?" Hassan testified "then the gun comes out and it's pointed right between my eyes " Hassan stated that the Respondent pulled the gun out from behind his waist and "pointed it right at my face " Hassan was four or five feet away from the Respondent when he did this Hassan stated, " you could tell it was in a holster and things like that It looked like it wasn't plastic " Hassan stated he believed it to be a real gun

The Respondent had the gun out for five seconds when Hassan ' had an adrenaline rush " He ' jumped for the gun to get it out of [the Respondent's] hands " The Respondent did not say anything to Hassan when he pulled out the gun Hassan added that "the gun comes out I am looking at the point and the next thing I know I am going for the gun ' Hassan was concerned for his safety at this time After Hassan went for the gun, one of his friends came to get the gun out of the Respondent's hands Hassan stated the Respondent, "wasn't in the right state of mind, so the shot could have went off even by accident " There was a struggle of "two, three, four people" for the gun At that point, "the magazine fell out of the gun and [Majid] grabbed the magazine then gave him [the Respondent] back the magazine and the security came and that's when they took him down "

Hassan testified the gun never left the Respondent's hands Hassan did not say anything when the Respondent pulled the gun out and pointed it at him because "at that point I basically was just going for gun you know, get it out of my face " Hassan stated he was "trying to point it upwards so if it did go off it would go up " Hassan believed the Respondent was intoxicated because of his behavior – the way he was driving and how he tried to "run us off the road," and also when the Respondent poked him at the bar, "he had that dumbfounded face like he didn't know what was going on himself " Hassan believed the Respondent was drunk because he ' pull[ed] the gun out like that, without anybody even touching him no danger to him and [he] just pulls a gun out "

Hassan did not have a weapon on him He did not see anyone besides the Respondent with a weapon He did not see anyone pull out a tire iron and he did not see a pipe or a knife No one punched or struck Respondent Prior to the incident, Hassan did not have problems with the Respondent He also did not know that Respondent was a police officer He did not hold up an ID card or shield during the incident

On cross-examination, Hassan said he was on the sidewalk at Hofstra for approximately five minutes before Public Safety arrived He stated the Respondent was not talking in a loud voice and he did not hear the Respondent say anything to him Upon being asked if the Respondent was yelling or talking in a low voice, Hassan stated, "I don't know I don't even know what the temperature was at that time how I am supposed to know if he was talking in a loud voice or a calm voice, there is so many things going on I get a gun pointed towards me and that is what I know "

Hassan stated the Respondent pulled out the gun from behind his back from the right side Hassan stated, ' that is what I remember after that there was a big black hole pointed right towards my face '

Hassan stated his friend, Amin, was driving the car the group was traveling in. Hassan drove to the club and Amin drove when they left the club because Hassan was tired. Upon being asked if he had anything to drink, Hassan said "No," he had nothing but water at S O B 's. Hassan stated that he did not do anything that clouded his memory.

Hassan stated he "remembers me and him being face-to-face [and] I remember the part where he barged into the security gate at Hofstra." Hassan stated, "I don't know how he got in, but I would say if you're coming in somewhere without having an entry given to you, you are barging in." Upon questioning by the Court, Hassan agreed that he did not see the Respondent go through the gate. He stated he "saw [the Respondent's] car stop and then go ahead after that." Hassan stated he knew it was the Respondent's car because he "knows cars" and he "could tell it was [REDACTED] sedan headlights behind me."

Hassan stated that he did not go to the state police and tell them what happened because he did not know the State Troopers were in the area where he was driving. He also did not call 911. He acknowledged that the Respondent never hit his car, or knocked anything off his car. While the Respondent came close, Hassan did not call 911 because "my first thing was basically to get to safety."

Hassan stated the Respondent stopped his car on the Northern State Parkway. Hassan then saw the reverse lights of the Respondent's car backing up, but they had already taken the exit. Hassan stated, "I don't know what he did after that, we didn't see him until getting to Hofstra." The Respondent showed up at Hofstra just as Hassan and his group arrived there, on the opposite side of the road. Before they went through the gate, Hassan realized that the Respondent was behind them after Salman pointed him out.

He did not tell the security guard that the Respondent was following him because he did not know why he was there They just swiped the card and went in

Hassan stated that he did not think the Respondent would get through security because he did not have a school ID card Hassan stated that Salman was Respondent's "girlfriend, ex-girlfriend maybe he wanted me to drop her off and then he would come talk to her I have nothing to do with that I didn't know he was going to come in a rage and point a gun at me " Hassan was not trying to date Salman They did not go to S O B 's as a couple, they went with "a bunch of friends "

Hassan had to drive less than a minute from the security gate to where the car was parked The distance was a little shorter than half a mile They pulled right in front of the building He pointed out that it was not really a parking lot, just a drop off space It was early in the morning and it was still dark The Respondent pulled his car next to them Hassan stated his group was already outside the car so the Respondent and Majid got out of their car He did not call 911 or ask Respondent why he was there

Upon being asked if it was well lit where they were parked, Hassan stated there were a couple of lamp posts Salman was the first one to get out of the car Hassan did not remember who the Respondent spoke to first Hassan stated Majid was holding the Respondent back When the Respondent got out, Ali came around and got in between their group and the Respondent Hassan stated no one in his group spoke to the Respondent when he first got out of the car

When the Respondent got closer to Hassan he did not run away Hassan knew the Respondent may have been a police officer He heard this through other friends and from Salman Hassan stated he was not aware of who called Public Safety Hassan spoke to Assistant District Attorney Adam D'Antonio of the Nassau County District Attorney's

office Hassan stated he did not know why the Respondent was arrested He agreed he was the victim, but stated the Respondent was arrested even before he gave his statement to the NCPD Hassan stated that the case against the Respondent was dropped and he received a court order of protection

Hassan has not had contact with the Respondent since June 6, 2008 When asked what the color of the gun was, Hassan said it was a black gun and metal² Hassan saw the Respondent with a drink at S O B 's but he was not sure if he saw the Respondent holding a drink when he poked him

On redirect examination, Hassan stated that when he exited the area, he was unaware there was a police barrack around there He did not see a police station or a police car Upon being asked why he did not call 911, Hassan stated he thought he would not see the Respondent again, and that would be the end of it

When Hassan approached Hofstra, Respondent's vehicle was already there It was across from them at a light Upon being asked if he recognized it to be the same car they had the altercation with, Hassan stated it looked like the same car After they turned in and it was right behind them, he knew it was his car Hassan's vehicle was parked at a drop-off point There were no other cars parked in front of them It was just a sidewalk They were parked in front of the ████████ dormitory Hassan stated there were some lights in the parking lot They were "vestibule-size" lights and they were on at the time

Hassan got an order of protection against the Respondent It came in the mail, after the incident at Hofstra. The order was good for two years

² It should be noted that the Respondent's gun was vouchered by both the NCPD and the Department It is black 9mm Glock with a black magazine containing 15 9mm rounds One 9mm round was recovered from the gun's chamber (Respondent Exhibits 2 and 3, property invoices from NCPD and the Department, respectively)

Sajjad Ali

Ali testified that on June 5, 2008, into the morning of June 6, 2008, he went to S O B 's with a group of friends. Ali stated "before that night I didn't know [the Respondent] at all." Ali did not see the Respondent at S O B 's and he did not see him until the incident happened at Hofstra. Ali did not remember what time they left the club. They all left together in a Maxima and headed to Hofstra to drop off Salman. Upon being asked what route they took after leaving the club, Ali stated "I would have no idea, I was sitting in the back." He then stated that most probably it would have been the Northern State Parkway, to the Meadowbrook Parkway, but he was not really sure.

While Ali and his friends were on the highway driving towards Hofstra, a maroon-colored [REDACTED] with dark tinted windows was "trying to run us off the road." Their car was in the left lane and the Respondent came up from the right lane. Ali said the driver of their car slammed on the brake as soon as they saw him coming towards them. He stated that they thought it was a drunk driver. He stated that the Respondent went ahead of them, put his window down and showed his face. Ali said "Mishaal was like it's Fahad." They took an exit and that was how they lost the Respondent.

Ali testified that this altercation took place for about two minutes. The Respondent "just came out against their car put the window down he started going psycho, tried pinning us against the wall." The driver of the car Ali was in kept slamming on the brake to avoid getting into an accident with the Respondent's car. The Respondent's vehicle was ahead of them when they took the exit. They then pulled up to a gas station where Salman called the Respondent "telling him what the hell are you trying to do."

Ali said that after they left the gas station, they proceeded towards Hofstra. When they approached Hofstra, Ali saw the Respondent's car on the right and recognized it as the one they had the altercation with. The Respondent saw their car and then made a U-turn. They thought they were going to lose him at the Hofstra security gate, but he managed to cross that. Salman had a Hofstra ID and showed it at the security gate to get in. Ali stated that once they passed through the gate, he did not see where the other vehicle was at that point.

Ali stated that the group got out of the car to say goodbye to Salman and after that, the Respondent arrived in his car and got out. Ali stated, "If I am not wrong, he started an argument with Mishaal or something." Hassan started arguing with the Respondent and after that, "I don't exactly know what happened." Ali stated the Respondent's friend, Majid, tried to stop the situation from escalating. Then, "it got to a point where [the Respondent] pulled out his gun from his holster and that is when pretty much everyone jumped on him so that he does not do anything." Ali mentioned that they were concerned, based on the way Respondent was acting, that he had consumed alcohol.

Ali stated the Respondent started an argument with Salman. Upon being asked how Hassan "got in the mix," Ali stated that he did not remember, but Hassan was trying to break off whatever argument they were having. Ali did not remember the nature of the argument because he was talking to Amin at the time.

According to Ali, Hassan did not threaten the Respondent. Ali did not recall what was said between Hassan and the Respondent right before the gun was taken out. The Respondent then pulled the gun from his holster and pointed it at Hassan's head. Ali did not remember how long the Respondent had the gun pointed at Hassan. He was pointing it straight and he was three to four feet away. Ali was asked what the Respondent said.

when he pointed the gun at Hassan and he replied, "Whatever is in my statements that I gave the officer that night" Ali was shown his statement to refresh his recollection According to the statement Ali gave the NCPD officer, the Respondent was yelling at Hassan, "you're dead, you're dead"

This statement was taken right after the incident happened Ali signed this statement and he confirmed his signature on the bottom Ali was asked if anyone else said anything besides the Respondent Ali stated Hassan pushed the gun away from his face Ali recalls Hassan saying something to the effect of, "If you want to point a gun at me shoot me"

When Ali saw the weapon, he recognized it to be a gun Upon being asked how he recognized it to be a real gun, Ali stated usually fake guns have a different kind of color in the front to identify that it is not a real gun. It appeared to be metal Ali stated he was a car length away from the Respondent when he pulled the gun out

Ali stated the group 'kept telling [the Respondent] to put the gun away,' and Majid was "the first one to tell him to put the gun away" The group was trying to "make sure the gun did not go off we kept it steady we just pointed it toward the floor" No one took the gun from the Respondent He said himself "I'm calm" and put the gun away

Campus security arrived a few minutes later and searched everyone They found the gun on the Respondent and put him on the floor saying, 'he has a gun on him' and put the Respondent in handcuffs The security officers did not find a weapon on any of the other people Ali stated he did not have a weapon that evening and he did not see anyone else with a weapon, a pipe, a jack iron or a knife He did not see anyone take any items out of the trunk prior to the altercation

Ali stated that prior to the Respondent pulling out the gun, there was no physical confrontation between the parties Ali went on to say that the only person who touched the Respondent was ‘Noaman Hassan when he moved the gun from his face and as soon as Noaman Hassan did that that is when we all jumped on top of [the Respondent] to try to get the gun away from him ” Ali stated the police arrived after campus security At that time, Ali found out the Respondent was a police officer because ‘he was yelling that at the time at the security guards ” Once they put him in handcuffs, they told him they have to identify him before they let him go Prior to the Respondent telling security he was a police officer, he never said that He never pulled out a shield or any type of identification

On cross-examination, Ali stated he never met the Respondent before June 6, 2008 Ali stated none of them were drinking alcohol at S O B ’s Hassan drove to S O B ’s and they stayed there for two hours Hassan did not complain to the group that he had been poked in the ribs by the Respondent at S O B ’s Ali was not aware that some of the people knew the Respondent until Salman identified him

Ali stated that Amin was driving when this incident happened, but he had not driven to S O B ’s He was driving because Hassan was not feeling well due a headache and his asthma Ali was in the back seat of the car and he did not remember who he was sitting next to Ali stated Salman was sitting in the front passenger seat and he did not see her talking on the phone

Ali did not call 911 when the road rage incident took place, as he did not have a phone He did not ask anyone in the car to call 911 He stated that as soon as they got off the exit, there was a Mobile or Gulf gas station and that was all he remembered

Upon being asked how much time transpired between the road rage incident until they got to Hofstra, Ali stated that it was almost an hour. He stated that after that, Salman was on the phone because the first thing she did was call the Respondent and ask, "What are you trying to do?" Upon being asked how she knew it was him, Ali stated "as I said earlier, he put down his window and showed his face and Mishaal yelled out of the car that it's him [the Respondent]"

Ali said the Respondent's car was on the other side of the road when they got near Hofstra. He did not see any other people walking along the campus or in the parking lot. Ali recounted that when the Respondent got out of his car, he immediately went to Salman. The group was standing together when the Respondent and Salman started to argue. Upon being asked if he tried to intervene when the Respondent came toward Salman, Ali stated he did not know her. He only met her twice before. He found out later that Salman was the Respondent's ex-girlfriend or was still dating her, he did not know exactly.

Ali testified that "apparently the reason why [the Respondent] tried to run us off the road was Mishaal." Upon being asked how he knew that, Ali said, "We did talk after the whole thing happened and why this whole thing happened." He did not know this at the time.

Upon being asked if any part of the gun fell on the ground, Ali stated the magazine fell on the ground while the group was wrestling with the Respondent. Upon seeing the Respondent's friend, Majid, jump on the Respondent, Ali and his friends felt secure enough to jump on him as well. Before the police or security came, the Respondent put the gun back in his holster.

Ali stated he did not know Respondent was a police officer. He saw his badge on his belt. Even though he saw a badge he was not able to say whether he was a police officer because a lot of departments carry a badge. He could have been a fire marshal.

Upon being asked if he was interviewed by the Nassau County District Attorney's office, Ali replied "I don't remember, I got interviewed by too many people." He agreed that they asked him to come in and he never showed up. Ali explained, "I honestly did not care about it, which I still don't. The guy did what he did whatever mistake he made in this thing, I am pretty sure he regrets it."

On redirect examination, Ali stated that he was not sure if there was any conversation about calling 911 because this had occurred. Upon being asked if he wanted 911 to be called, Ali stated that before the Respondent showed up, they thought the incident was over with. They thought that Hofstra was a secure area and that the Respondent would not be let in even if he was following them.

Out-of Court Statements of Faiq Amin

Sergeant Alfred Vargas of the Bronx Investigations Unit conducted a telephone interview of Amin. Department's Exhibit (DX) 1 is the tape recording of the undated interview, and DX 1A is the corresponding transcript. Before being asked any questions after Vargas introduced himself, Amin asked Vargas if he had spoken to Hussain.

Because that was the guy that the gun was pulled on." Amin said that on the day of the incident he gave the NCPD a statement (DX 6).

Amin stated that while he was driving on "highway 495," the Respondent tried to cut him off. Amin stated that he had five passengers in the car Salman, Hassan, Ali, Hussain and another female. He stated that before that night he did not know who the

Respondent was, nor did he even know that he was a police officer. He stated that the Respondent "was driving like a maniac." At the time, he had 'absolutely no idea' why the Respondent was trying to cut him off, but learned afterwards that it had something to do with Salman.

Amin said he then took Salman to Hofstra. Someone in his car showed ID to get them passed security. When he looked in his "back mirror," he saw that the Respondent "didn't show ID at the barricade." He did not know how the Respondent got in but believed that "something [was] going to happen" and decided to drop off Salman "and get out of there."

Amin stated that the Respondent and Majid got out of their car and "both of them was arguing and shouting" and "They get around our car, and they asked my friends to come out, specifically Noaman." At that point, according to Amin, the people he drove were still in his car and while Salman was about to get out of the car, "she couldn't get out. He was there before she could get out."

Amin stated that he took Salman and the other female 'on the side. I didn't want to get them into like any trouble, anything like that, I took them on the side. And then the next thing I see is I see a gun pointed at Noaman. And then Majid turned to take the magazine out and then a lot of cops jump on [the Respondent].'" He further stated that he did not see any kind of weapon in anybody else's hand. He did not see a pipe or a knife in Hassan's hand or in Hussain's hand.

Amin stated that he did not "know how the thing heated up and the next thing I see is the gun pointed at . . ." He heard a lot of shouting but he had moved too far away to hear exactly what was said. He further explained that it was Ali "who made the first move who tried to point the direction [of the gun] away from Noaman." He

acknowledged that when the Respondent first pulled out the gun he pointed it at Hassan "I see Noaman, he was like shocked—like [the Respondent] was actually going to shoot him and then like my other friends they react One of them try to grab his hand " He was not sure if it was Hussain or Ali, but he then stated that Hussain was the one who pulled the magazine from the gun.

Amin stated that there was no physical fight before the gun was drawn or after the magazine was removed "because as soon as he took the magazine out he ran with the magazine The next thing I see is the cops—the security car—and then five, six cars pulled over " Amin said that no shots were fired during the incident

Supporting Deposition of Faiq Amin

Amin also made a statement to the NCPD on June 6, 2008, that was recorded in a Supporting Deposition (DX 6) In that deposition, which he signed, he stated that he was driving east on the Northern State Parkway on his way to Hofstra to drop off some of his passengers At one point a maroon [REDACTED] tried several times to cut in front of him He had to slam on his brakes and swerve to avoid the vehicle He stated that the car continued to follow him to Hofstra.

At Hofstra, they all got out of the car and the driver of the Infiniti, the Respondent, started to argue with Salman Hassan intervened and they started to argue Amin wrote, 'I then looked over and saw [the Respondent] had a black pistol in his right hand and was pointing it at Noman [sic] Shortly afterward security showed up and arrested [the Respondent] "

Out-of Court Statements of Taimur Hussain

Sergeant Alfred Vargas of the Bronx Investigations Unit conducted a telephone interview of Hussain. DX 1 is the tape recording of the undated interview, and DX 1B is the corresponding transcript.

Hussain stated that he and his friends were en route by car to Hofstra to drop off Salman when a maroon [REDACTED] sedan was "trying to run us off the road. He basically came up and came to the side and started to like come in our lane real fast like two or three times sideswipe. He was drunk and then he was trying to basically push us, like scare us so we would hit the divider or whatever. As soon as we got to Hofstra, we see the same car behind us, and we got to Hofstra and he was right behind us at the security gate." He said that one of the women in the car had an ID card and showed it to a security officer. He further stated "and we start driving in, and he just comes like barging through the gate like there's no gate but he just drove. And then we pulled up to where the girl's dorm is and they came, these guys [two of them] came out of their car, and we came out too they pulled up right next to us," adding that it was the same car they encountered on the highway.

Hussain stated that both cars emptied out and he just wanted to "escort the girl [Salman] to her dorm." Hussain further explained, "Noaman was talking to one of the guys, like calmly and then I don't know what happened. I was standing there, and I think they started arguing or whatever and basically the guy pulled out a gun." Hussain stated that neither he, Hassan, nor anyone else in his party had any type of weapons including a pipe, a stick, a hammer or a knife. Hussain was three or four feet behind Hassan.

While Hussain stated that he could not remember what was said he believed that Hassan was asking the Respondent why he was trying to run them off the highway He also could not remember what the Respondent said but recalled that he was cursing Hussain further recounted that Hassan was about two feet from the Respondent and "pulled out the gun and liked walked toward Noaman and put it in his face " He did not think that the Respondent touched Hassan's face with the gun There was also no physical fighting that took place—they were having a verbal argument

Hussain said that the Respondent said something like I'm going to kill you " He further explained

[The Respondent] pulled out the gun, and we basically for like a second we stopped, like we were in shock or whatever, and then we all basically--Noaman tried to push the gun away from his hand, and me and my friend, Sajjad, we liked grabbed him too, grabbed the guy with the gun I don't know how we were like struggling to pull the gun out of his hands, and the magazine liked popped out. I think And so I grabbed the magazine, and these guys are still rushing for the gun "

He added that the magazine was sticking out of the gun 'a little bit so I pulled it out "

After grabbing the magazine, Hussain said, he ran approximately 10 to 15 feet away from them At that point, the passenger from the Respondent's car [Majid] "came up to me and he's like I don't know he said something like give it back, give the magazine back So I gave it back to him I didn't want to escalate up to what it is now And I gave it to him As soon as I gave it to him, the security came " Hussain was not sure what Majid did with the magazine

He further stated that when security arrived "all three of us put our hands up and security came and tackled the guy with the gun I think he still had the gun on him They tackled him, put him to the ground Handcuffed him, and they even handcuffed one of

my friends for no reason, and then they started asking questions and that's when the police came '

Supporting Deposition of Taimur Hussain

Hussain also made a statement to the NCPD on June 6, 2008, that was recorded in a Supporting Deposition (DX 5) In that deposition, which he signed, Hussain stated that he was a passenger in a vehicle heading to Hofstra when a red Infiniti tried to run them off the road on the Northern State Parkway The Infiniti followed them to Hofstra's parking lot and the driver of the Infiniti, who he learned was the Respondent, got out of the car and started yelling at Hassan The Respondent then pulled out a black handgun and pointed it at Hassan and told him, "Don't fuck with me " Hussain and Hassan grabbed the gun and somehow the magazine fell out Hussain grabbed the magazine and walked away He then handed the magazine to the Respondent's friend When security showed up, Hussain told them that he wanted the Respondent arrested

Supporting Deposition of Zara Rafiq

Rafiq made a statement to the NCPD on June 6, 2008, that was recorded in a Supporting Deposition (DX 4) She stated that she was with her friends in a car going to Hofstra to drop off her friend At one point, a burgundy Infiniti G35 was trying to cut them off on the LIE Rafiq noted that the driver of the other car was swerving his car towards theirs and that scared them He then followed them to Hofstra where both cars stopped. A man, who Rafiq learned was the Respondent, got out of his car and pointed a gun at Rafiq's friend's head At that point Rafiq ran because she was scared

Supporting Deposition of Michael Woythaler

Woythaler made a statement to the NCPD on June 6, 2008, that was recorded in a Supporting Deposition (DX 7) He stated that he was working as a Hofstra Public Safety officer when he received a call over the radio of a fight outside [REDACTED] Hall When he arrived, there was a crowd and one of the people in the group said that someone, who he now knows as the Respondent, was walking off and had a gun He stopped the Respondent and observed a black semi-automatic handgun in a holster sticking out of the back of his pants He placed the Respondent on the ground and recovered a loaded Glock 19 from the Respondent's pants Woythaler unloaded the gun and placed the Respondent in handcuffs The police were then notified

Supporting Depositions of Mishaal Salman³

Salman made two statements to the NCPD on June 6, 2008, that were recorded in a Domestic Incident Report and in a Supporting Deposition (DX 8) In Salman's first deposition, recorded at 5 00 a m in a Domestic Incident Report, she stated that her boyfriend, the Respondent, started an argument with her friend Hassan The Respondent then followed them on the Northern State Parkway and tried to run into their vehicle She stated that she was scared he was going to crash into them and hurt them The Respondent then followed them to Hofstra and got out of his car and started yelling at Hassan and then pointed a gun in his face She thought the Respondent was going to shoot Hassan Then security came and put the Respondent in handcuffs She added that she was afraid of the Respondent but did not want him arrested

³ The Court reopened the case on October 14, 2010, for these documents to be admitted into evidence

In Salman's Supporting Deposition, recorded at 5 30 a.m. on June 6, 2008, she reported that she was with her friends at a club, S O B 's, where she saw her ex-boyfriend, the Respondent. She did not speak to him at the club. She left the club and had dinner. At 4 00 a.m., she and her friends began to drive home. On the way home, she received a call from the Respondent. When he asked where she was and what kind of car she was in, she told him. He told her to get out of the car and he would drive her home. She told him no, but stayed on the phone with him. While on the LIE, the Respondent told her to look behind the car and hung up the phone. She stated that she saw the Respondent's car behind her. The Respondent then pulled his car next to theirs and tried to run them off the road. Hassan, who was the driver of the car she was in, took the first exit he could and pulled into a gas station. They then got back on the road and went towards Hofstra.

Salman said she saw the Respondent's car again at Hofstra and as they pulled into the school grounds the Respondent followed them in without stopping at the guard booth. They then pulled into the parking lot and the Respondent pulled in next to them. The Respondent got out and began arguing with Hassan. They exchanged words and began pushing each other. The Respondent pulled out a black handgun and pointed it at Hassan. Amin then grabbed the gun from the Respondent. A short while later, Public Safety arrived and broke up the fight. She stated in the deposition that she wanted the Respondent arrested.

The Respondent's Case

The Respondent called Mishaal Salman as a witness and he testified in his own behalf.

Mishaal Salman

Salman stated she knows the Respondent and they are good friends. She saw him early in the morning of June 6, 2008, at S O B 's. She was not with him at the club that night, she just saw him there. She was with her friends, "Noaman and them." Salman stated she and her friends left the club at 3:00 a.m. She was going back to her dormitory at Hofstra and got a ride from her friend Hassan.

Salman had occasion to see the Respondent in his car on the way back to the dormitory and spoke to him on the phone while she was in the car. The Respondent was texting Salman because sometimes he and his friend would stay in her dormitory. She stated that he did not tell her where he was going or what he was doing.

On the LIE en route to Hofstra, the Respondent was trying to say something to Hassan and "I guess there was an altercation with the cars." Salman clarified that they were trying to talk with the windows down in both cars. Salman went on to say "that made Noaman mad." At one point, Hassan started speeding up and got off the exit.

After exiting the highway, Salman did not see the Respondent following them and she did not know where he was going. It took 15 or 20 minutes to get back to Hofstra. Salman agreed that when they arrived at the university just prior to entering the dormitory area, they saw the Respondent's car. Salman did not remember if he was immediately behind them, but he was there when they parked. She believed that both cars got to the parking lot at the same time.

Everyone got out of the cars, the people in her car walked around to the Respondent's car and started arguing. Salman did not know what they were arguing about. The people in her car "opened the trunk and they got a bat and a blade but I don't know if the blade was from the trunk or if he already had it." She stated that Hussain had

the blade When they approached the Respondent, he was alone at the time His friend was sitting in the car

From there she did not know what happened because "we kind of walked away from the scene " Salman stated the men were arguing for maybe 10 or 15 minutes and she and her friend did not call campus security during that time There was no one passing by in the area and no one came to intervene Salman stated that she did not see anyone with a firearm

Salman knew the Respondent was employed by the Department She did not see him with his firearm Salman "heard Noaman say something about a gun but I didn't see anything " Salman stated that the Respondent said he was a police officer when the police came She also did not see him point a firearm at any of the men that had been in the car She said, "I didn't see the gun at all "

On cross-examination, Salman stated she was standing a little further away from the group when she heard people talking about the firearm She believed it was Hassan who said something about the gun She did not know who was holding it but she knew there was a gun She could see the Respondent at this point, but could not see what they were doing because there was a car in the middle that was blocking her view

Salman stated Hassan took a metal bat out of the trunk, but she was too far away to see if he threatened the Respondent with it She added, "I saw him grabbing it out of the trunk and that is all I saw" because at that point she walked away

Salman said she saw Hussain with a blade in his hands She does not know if he put it in his pocket and she did not see him threaten anyone with it Regarding the incident on the highway, Salman did not know how it started but "they were getting aggressive on the road " Salman stated the Respondent's car was in the middle lane and

the car she and her friends were in was in the left lane She stated the Respondent's car "got a little close," but it did not touch their car

Upon being asked if she was dating the Respondent, Salman said, "We were seeing each other, yes" Salman was shown the signed Domestic Incident Report deposition she gave to the NCPD (DX 8) Salman was reminded that she had indicated in her statement that the Respondent followed the vehicle she was in and tried to ram into it, that she "was scared he was going to crash into us and hurt us," that "he got out of his car yelling at Noaman and then pointed a gun in his face I thought he was going to shoot them," that the final line of the statement read, "I am having [Police Officer shield number] 1129 write this statement for me and it is the truth," and that her prior statement did not indicate that the other parties had weapons In response, Salman stated that she had not written the statement Moreover, it was three years ago and she did not remember She also added that she was intoxicated then

Salman acknowledged that she had a phone conversation with the Respondent after the incident on the road She stated the Respondent asked to speak with Hassan She knew they were going to meet somewhere, but she did not know what they were going to discuss She stated she was aware the Respondent threatened to beat up Hassan

Salman was not certain if the item Hassan pulled out of the trunk was a baseball bat, but "it was some kind of bat" When asked if she recalled giving a statement to the Department where she stated it was a pipe Salman replied that it might have been a pipe Salman agreed that "it might have been a bat, it might have been a pipe"

On redirect examination, upon being asked if a bat or a pipe is a hard differentiation for her, Salman stated that she did not remember three years later She agreed that it was long, bat-shaped and probably metal Salman stated that she did not

write the Domestic Incident Report deposition, but she had signed it. She stated the officer prepared it and then she signed it. Salman stated the NCPD officer told her to reread it when he gave it to her. He did not ask her to make changes to it.

Upon being asked why she appeared in this court, Salman said she received a subpoena in the mail. The Respondent did not tell Salman to come in and testify. She had not spoken to him in two years and has not seen him since June 2008. Regarding what she just testified to, she agreed she told the Assistant Department Advocate the same story earlier that day. Salman stated the Assistant Department Advocate asked her if that was the same thing she told the District Attorney's office and she said yes.

The Respondent

The Respondent was appointed to the Department on January 10, 2005 and was assigned to the 40 Precinct before going to his current command, the Bronx Court Section. He was arrested at Hofstra, in Nassau County, for Menacing. The charges in the criminal case were dropped by the District Attorney.⁴

Early on June 6, 2008, he was at S O B 's, a club in Manhattan. He was there for approximately two hours with his friend, Majid, and saw some colleagues he used to go to college with. He left S O B 's around 1:30 or 2:00 a.m. On that date, the Respondent drove a 2003 [REDACTED] with the license plate, he said, "[REDACTED] and [REDACTED] [REDACTED]"

⁴ The Nassau County Assistant District Attorney's Motion to Dismiss the criminal charges against the Respondent was dated October 5, 2009, and so ordered by District Court Judge, Honorable Fran Ricigliano on November 17, 2009 (Respondent Exhibit A).

⁵ This could be a typographical error because in other testimony the [REDACTED] model was described as a "██████████."

The Respondent stated that after he left S O B 's, he was going to Long Island to his cousin's house in [REDACTED] He acknowledged that on the way there he called Salman, because he was dropping off Majid, who was staying at Salman's dormitory at Hofstra for the night. The Respondent took the Queensborough Bridge to the LIE to exit 38 to the Meadowbrook Parkway. At one point on the LIE he became involved in an incident involving another automobile. The Respondent stated he was driving in the middle lane and a car came out of nowhere and started stopping short in front of him. He stated that he had to step on his brakes. He tried to avoid the other car by switching lanes. He stated that the car was driving in front of him and stopping short, he stated that he did not want to "rear end" it. He added that this scenario went on for four or five minutes. The Respondent then went straight and the other car exited the highway. He did not recognize the car, nor did he remember what type of car it was. After this incident, he took the Meadowbrook Parkway straight to Hofstra.

The Respondent testified that when he arrived at Hofstra, he did not have any trouble entering into the gated area at the campus. Once he passed the gated area, he "proceeded in, I parked by her [Salman's] dorm." He further testified that three or four minutes after he parked, the "same car [he] saw on the highway parked on the driver's side of me to the left of me." When the car pulled along side of him, he was still in the car. He "saw these guys coming out of the car, one of the guys opened the trunk pulled out a tire iron, the other guy in the passenger seat had a blade in his hand." At that point the Respondent exited the car because he "had no other choice."

The Respondent stated that he moved towards the back of the car and pulled out his shield to let the men know he was a police officer. He stated he did not remove his firearm, and recounted

These guys kept approaching me, I don't know the guy's name the one I guess he testified the last time, he approached and as I was putting my shield back I guess he saw the gun I clipped it [the shueld] right next to my holster He kept coming at me, one point he just grabbed it I am trying to grab his hand off of it and two other guys came and he pulled it out and snapped it out of the holster I still had my hand on it trying to grab it down, a struggle was on about six hands on it I grabbed it back I put it back in my holster

The Respondent acknowledged that when the gun was out of its holster, he did not point it at either of these individuals and did not make any threats to shoot them or kill them He stated that the struggle for the gun lasted approximately two minutes

Upon questioning by the Court, the Respondent stated he was dropping off Majid to stay in Salman's dormitory Majid lived in [REDACTED] but was too intoxicated to go home The Respondent stated that while Majid was going to stay in Salman's dormitory, Salman was not his girlfriend, they were all mutual friends

The Respondent further testified that once he regained possession of the gun, he "put [his] holster back up" and stepped back and dialed 911 As he was dialing, a few seconds later Hofstra security showed up The Respondent stated that his "whole arm was bruised up and you could see my forehead is still red, there is a permanent mark there " When asked if he sought medical attention he stated that he "went to the dermatologist a few times "

Once Hofstra security arrived, they pushed him against the trunk of his car, handcuffed him and put him in the car While this was happening, he was telling them he was a police officer A few minutes later, NCPD arrived The Respondent then told them he got attacked, that "they were trying to get my gun out of its holster, I am a police officer with the NYPD ' When asked if he knew the four individuals that tried to take his

gun from him he stated he has seen one of them at social events He has not had further contact with them since this incident

On cross-examination, the Respondent stated he was not drinking alcoholic beverages at the club His friend, Majid, was drinking and was intoxicated by the time they left Majid got in the car with the Respondent and fell asleep in a few minutes He woke up when the Respondent stepped on the brake on the highway

The Respondent stated that he called Salman to ask if he could possibly drop Majid off at her dormitory and she agreed The Respondent made this call 10 or 15 minutes after they left the club Upon being asked if she was in the other car, the Respondent stated he did not know where she was In response to the Court's inquiry as to where he was taking Majid when they first got in the car, the Respondent stated they were thinking about going home, but after the Respondent saw Majid's condition, he decided to ask Salman if Majid could stay at her dormitory

The respondent said he did not hear Majid talking to Salman At the time the incident occurred on the highway, the Respondent did not realize Salman was in the other car He also did not recall seeing Salman in the club, nor did he recall seeing any of the people that he later got into the altercation with at the club Upon being asked if he recalled going up to one of the men and "poking him and trying to get in his face at the club," the Respondent replied, 'As far as I recall, no "

The Respondent did not get a good look at the other car and he did not call 911 to report the altercation on the highway When he arrived at Hofstra, he did not have a Hofstra student ID He also did not show the Hofstra security his police ID Instead, for security to let him on the campus, the Respondent showed them his New York State driver's license

The Respondent stated he was injured as a result of this incident, due to the struggle with the four individuals trying to get his gun out of his holster. Upon being asked if the injury was as a result of any struggle that he had with the police or security guards, the Respondent stated the security guards "just pushed me against the trunk, threw me down and cuffed me up."

The Respondent stated the men he encountered had weapons in that Hassan went to the trunk and got a tire iron and the male in the passenger seat had a blade in his hand. The Respondent was not hit with the tire iron or cut with the blade, nor did they attempt to strike him with those items. He did not recall if at the time they grabbed the gun from his holster, if they were holding those weapons.

The Respondent stated that he told the police officers who responded to the scene that these individuals had weapons, but the officers did not attempt to search for those weapons. Upon being asked if there were any records in the police reports to indicate that he told the police about these weapons, he stated that he had not checked. The Respondent did state, however, that he told the officers that they had weapons and that they tried to take his gun away from him. He did not know if they wrote it in the reports. The Respondent did not see the police searching any of the individuals he was involved in this altercation with, nor did he see them searching either of the vehicles for a weapon.

FINDINGS AND ANALYSIS

The Respondent is charged with conduct prejudicial to the Department in that he placed another person "in reasonable fear of physical injury, serious physical injury, and/or death by displaying a deadly weapon, where he approached Noaman Hassan with

his firearm drawn, and did state to Hassan, in sum and substance, "I'm a cop, don't fuck with me, I'll kill you," causing Hassan to fear for his safety

Hassan was with his friends Mishaal Salman, Faiq Amin, Taimur Hussain, Sajjad Ali and Zara Rafiq. Salman was the the Respondent ex-girlfriend. At one point, while Hassan was at the club, S O B 's, the Respondent, for some unexplained reason, came up behind him and poked him in the ribs. They just looked at each other and nothing further happened at that time. Hassan did not know the Respondent at that time.

Hassan and the his friends left S O B 's to go to Hofstra University to drop off Salman at her dormitory. As they were en route to the school on the Northern State Parkway, a vehicle driven by the Respondent came up behind them in the right lane and tried to force his car, which was being driven by Amin, towards the divider on the parkway. The Respondent then drove in front of Hassan's vehicle and kept hitting the brakes to prevent it from passing his car.

Hassan and his friends got off at the next exit to get away from the Respondent, who he believed was aimed at driving them off the road. During the road incident, Hassan realized Salman was talking on her cell phone to the Respondent, "telling him where we are, where the car is and what the car looked liked."

After exiting the parkway and getting gas, the group headed to Hofstra. Upon pulling up to the security gate, Hassan saw the Respondent's vehicle behind him. He did not think the Respondent would be allowed onto the campus because a school ID was necessary for an individual to enter the campus. To Hassan s surprise, the Respondent was able to get through security and follow his vehicle to Salman's dormitory.

Hassan and his friends exited his vehicle and the Respondent exited his car looking "mad or something." Hassan believed that he looked drunk and Saqid Majid, the

Respondent's friend, was holding him back Hassan then saw the Respondent pull out a gun from his waist and "pointed it right at my face " Hassan then went for the Respondent's drawn gun Ali in turn also went for the gun

Hassan, in grabbing the gun, was trying to point it upwards so that if it did go off it would fire upwards During the struggle the magazine containing the bullets fell out of the gun Majid then grabbed the magazine and gave it back to the Respondent When the gun was pointed at him, Hassan remembered, 'a big black hole pointed right towards my face " He did not see a tire iron or a knife He also stated that Public Safety then came to the scene and took control of the individuals

Ali's testimony supported in substance the allegations made by Hassan He said that the Respondent tried to "run us off the road " When they all got out of their cars at Hofstra, Ali observed that the Respondent started arguing with Salman He also said that Hassan began arguing with the Respondent and then "it got to the point where the Respondent pulled out his gun from his holster and that is when pretty much everyone jumped on him so that he does not do anything " Ali also stated that the Respondent pulled out his gun and pointed it at Hassan's head and at the same time he was yelling at Hassan, "You're dead, you're dead " The Respondent's friend, Majid, was "the first one to tell him to put the gun away " Ali pointed out that when Public Safety arrived shortly afterwards they searched everyone and, except for the gun recovered from the Respondent, no other weapons were found on any of those present

During his telephone interview with the Department, Amin supported the fact that the Respondent tried to run them off the road and that he pointed a gun at Hassan He was driving the car that contained Hassan and the other passengers and he told the investigator that the Respondent "was driving like a maniac " He did not know at the

time why he was trying to run them off the road, but learned afterwards that it had something to do with Salman

At Hofstra, Ali saw the Respondent at the security gate and saw that he did not show any ID. He did not know how the Respondent got in. Once they parked in the parking lot they all got out of their cars and he observed the Respondent pull out a black gun and point it at Hassan. Someone tried to grab the gun and Hussain pulled the magazine from the gun. Security then arrived and arrested the Respondent.

Hussain was also interviewed by telephone and gave a statement to the NCPD. He also saw that the Respondent's [REDACTED] sedan was "trying to run them off the road." At Hofstra, he saw the Respondent right behind them at the security gate and when they pulled up to the dormitory, the Respondent parked alongside them. The Respondent and another male exited his vehicle and the Respondent pulled out a black handgun and pointed it at Hassan and told him, "Don't fuck with me." Hussain stated that neither he nor anyone else in his party had any weapons including a pipe or a knife.

Rafiq said in her statement to the NCPD that she was in the car when a [REDACTED] [REDACTED] tried to cut them off while they were on their way to Hofstra. Once at Hofstra, she saw the Respondent point a gun at her friend's head. She then ran because she was afraid.

Todd Rockensies' testimony adds a different dimension to this case in that he supports the testimony that the Respondent pointed a gun at someone, while at the same time, he did not know any of the parties involved in the incident. He is a carpenter that works at Hofstra and the most disinterested witness in this case.

At the time of the incident he was approximately 50 yards away from where it was unfolding. He heard loud talking and "before I knew it one guy pulled out a

gun then the guy who the gun was being pointed at was cursing you pulling an F'ing gun on me I will get my F'ing gun '

Rockensies did not see any other weapons in the group, nor did he see anyone make a threatening move with a weapon He also did not see the trunk of either car open, nor did he hear the individual who pulled out the gun identify himself as a police officer, or hold up a shield or any identification He stated that the gun was out for a few minutes and the man holding it was approximately six feet from the man he was pointing it at Rockensies then called security from his walkie-talkie and told them there was a fight going on and cautioned them about a man with a gun

The Respondent testified in his defense that prior to the incident, he was at the club, S O B's with his friend, Majid He did not "recall" poking Hassan in the club From there, he drove with Majid to Hofstra in his Infiniti, and on the way there, he called Salman because Majid was going to stay in her dormitory At one point on the LIE, the Respondent claimed, he was driving in the middle lane and a car came out of nowhere and started stopping short in front of him According to the Respondent, this scenario went on for four or five minutes until the other car exited the highway

When he arrived at Hofstra, the Respondent further claimed, he was able to pass through security by just showing his driver's license He stated that he then drove to the parking area where the dormitory was and three or four minutes after he parked his car, the same car that he had the incident with on the highway parked alongside of him Then he saw men exit from that car He also testified that he saw Hassan, who he believed was the driver, take out a tire iron from the trunk and further saw the front passenger had a blade in his hand He stated that, at that point, he exited his vehicle because he "had no other choice "

The Respondent stated that while he moved towards the back of his vehicle and pulled out his shield to let the men know he was a police officer, he did not remove his firearm. Rather, it was when he was putting his shield back on the clip by his holster that one of the men saw his gun and tried to grab it. He stated, "I am trying to grab his hand off of it and two other guys came and he pulled it out and snapped it out of the holster. I still had my hand on it trying to grab it down, a struggle was on about six hands on it. I grabbed it back I put it back in my holster." He added that when the gun was out of the holster he did not point it at anybody, nor did he make any threats to shoot or kill anyone. He stated that the tire iron and the blade were not used on him.

According to the Respondent, once he regained possession of the gun, he put it back in his holster and dialed 911. As he was in the process of dialing, Hofstra security showed up. A few minutes later the NCPD arrived.

In light of the overwhelming testimony presented by witnesses to this incident, the Respondent's version of what occurred is unconvincing to this Court. It seems farfetched that out of nowhere, and for no apparent reason, the car containing Hassan and Salman, the Respondent's ex-girlfriend, would seek out the Respondent's car and try to run him off the road. It is even more unlikely that he went through Hofstra security, before the car Salman was in arrived, by just showing his driver's license when it was made apparent from other testimony, and common sense, that a student ID was necessary to get onto the campus. It is more likely that he was able to pass through security because he drove in on the heels of Hassan's vehicle after Salman showed her student ID, thereby giving security the impression that he was part of that student group.

In addition, his half-hearted admission about his gun being exposed and blaming the other individuals for attempting to remove it from his holster makes no sense to this

Court If he truly was facing two men holding a tire iron and a blade, as a police officer, he would have had every right to pull out his gun to defend himself, and if possible, detain them until the police arrived In this Court's opinion, his story about the gun is a contrived excuse to explain away his pointing the gun at Hassan when he had no legitimate reason to do so

What is even more fatal to the Respondent's version of the events than his unbelievable testimony, is his own witness at trial Salman attempted, during her testimony, to support the Respondent's version by stating that on the parkway the Respondent was trying to say something to Hassan from one car to another with the windows down and "I guess there was an altercation with the cars" She never mentioned anything about the Respondent trying to run Hassan's car off the road

When she arrived at Hofstra, Salman stated, the Respondent arrived at the same time She claimed to have observed Hassan take a bat out of the trunk of the car and also saw Hussain with a blade She stated that they argued with the Respondent for 10 to 15 minutes and while she heard Hassan say something about a gun, she did not see anyone with a gun She also testified that she did not see Hassan or Hussain threaten the Respondent with their weapons

The more believable statements that Salman made, however, were not made in court, but were made in her two statements to the NCPD on the morning of the incident In those two separate statements, she informed the police that her boyfriend, the Respondent, started an argument with Hassan and followed them on the Northern State Parkway where he tried to run into their vehicle She stated that he also followed them to Hofstra and started yelling at Hassan and then pointed a gun in his face

According to Salman, while en route to Hofstra, she received a call from the Respondent, who asked her where she was and what kind of car she was in. He also told her to get out of the car and he would drive her home. She told him no but stayed on the phone with him. When they got on the LIE, the Respondent told her to look behind her car and hung up the phone. She saw the Respondent's car behind her. He then pulled his car next to theirs and tried to run them off the road.

Also, in her prior statements, Salman said she saw the Respondent's car behind them as they pulled into the school grounds and observed that he followed them in without stopping at the guard booth. She reiterated that the Respondent began arguing with Hassan and then pulled a black handgun and pointed it at him. In either of her statements she made no mention of Hassan or Hussain having a bat, a pipe or a blade.

Salman tried to downplay her prior statements by stating at trial that she did not write the statements, that it was three years ago and that she does not remember them. She also claimed to have been intoxicated. This Court, however, finds the details of her prior statements not only in accordance with the many other statements given at this trial, they also give this Court an explanation and motive for why the Respondent acted the way he did. The motive, at the very least, appears to be one of anger at the fact that Salman was at a club and riding in another car with other men. This is especially evident where Salman noted that he wanted to know where she was, what kind of car she was in and then told her to get out of the car because he wanted take her home. This view explains his reckless attempt to get the vehicle she was riding in to stop on the parkway. It also explains his immediate anger at Hassan when he exited his vehicle, and his pointing his gun at Hassan's head.

Based on the foregoing I find the Respondent Guilty as charged

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). The Respondent was appointed to the Department on January 10, 2005. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent has been found Guilty of placing or attempting to place another person in fear of physical injury, serious physical injury or death by displaying a deadly weapon, his gun. This Court finds that the Respondent, by drawing his gun, acted in a manner that could have inflicted serious harm to those in close proximity to where he was pointing that weapon. The fact that the weapon was not fired does not diminish the severity of his actions. One or more of the people involved could have been seriously injured or killed by a reckless discharge of a round from his gun.

This Court further finds that the Respondent's actions were not just an emotionally-charged fight over a parking spot (*Disciplinary Case No. 82581/07*) or an off-duty road rage incident (*Disciplinary Case No. 83337/07*) that resulted in him drawing his firearm. His actions were much more calculating in nature.

The June 6, 2008, incident for the Respondent began in the club S O B 's when he poked Hassan in the back. This poking was the likely result of him wanting to be with Salman after seeing her with the group of males. This conclusion is supported by Salman's statement to the NCPD, where she made it clear the Respondent contacted her by cell phone while she was in Hassan's car en route to Hofstra. Once the Respondent learned where she was and the kind of car she was in, he told her to get out of the car because he wanted to drive her to her dormitory. When she was not forthcoming, he then

attempted to stop Hassan's car by driving dangerously close to them to force them to the side of the road and by pulling in front of them and applying his brakes to cause them to slow down and ultimately stop.

When his attempt to stop them on the road failed, he showed up at Hofstra and drove past security on the heels of Hassan's vehicle to avoid having to show an ID. He then stopped his vehicle next to theirs. When he exited his vehicle he encountered Hassan and pointed his gun at Hassan's head and threatened him with it. It was fortunate for those present, that he was overpowered by the males, who managed to get the magazine from the gun, and for the call that Rockensies made to security.

What is disturbing to this Court is that at no point did the Respondent take the time to think of what he was doing—not when he left the club, not after he called Salman and tried to run them off the road and certainly not when he pulled his gun on Hassan.

Equally disturbing is the fact that, at the time of this incident, the Respondent was a police officer for only three-and-one-half years and in that short period of time he had managed to betray the trust that the Department placed in him as a protector of the public.

While the Department has made a penalty recommendation of a forfeiture of the 31 days the Respondent served on suspension and one-year dismissal probation, this Court believes that the appropriate penalty is separation from the Department.

Accordingly, this Court recommends that the Respondent be DISMISSED from the New York City Police Department.



Respectfully submitted,

John Grappone
Assistant Deputy Commissioner - Trials

POLICE DEPARTMENT
CITY OF NEW YORK

From Assistant Deputy Commissioner – Trials
To Police Commissioner
Subject CONFIDENTIAL MEMORANDUM
POLICE OFFICER FAHAD CHAUDHRY
TAX REGISTRY NO 936335
DISCIPLINARY CASE NOS 84195/08

On the last three performance evaluations contained in his personnel file, the Respondent received a rating of 3 5 "Above Competent," 3 5 "Above Competent," and 4 0 "Highly Competent" [REDACTED]

The Respondent has no prior disciplinary record

For your consideration



John Grappone
Assistant Deputy Commissioner – Trials